

### **REMARKS**

Claims 1-5, 7-12, 14-19, 21-28 and 30-31 are pending in the application.

Claims 1-5, 7-12, 14-19, 21-28 and 30-31 are rejected.

Claims 1, 8, 14, 21-23 and 30-31 are amended.

Reconsideration and allowance of claims 1-5, 7-12, 14-19, 21-28 and 30-31 is respectfully requested in view of the following:

#### ***Responses to Rejections to Claims – 35 U.S.C. §103***

Claims 1-5, 8-12, 15-19, 21-28 and 30-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chan et al (U.S. Patent No.5,027,343) (Chan hereinafter), in view of Raj et al (U.S. Patent No. 6,373,822) (Raj hereinafter). Claims 7 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chan in view of Raj in view of the applicants admitted prior art. These rejections are not applicable to the claims.

As the PTO recognizes in MPEP §2142:

The Examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the Examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness.

The USPTO clearly cannot establish a *prima facie* case of obviousness in connection with the amended claims for the following reasons:

35 U.S.C. §103(a) provides that:

[a] patent may not be obtained...if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.... (emphasis added)

Thus, when evaluating a claim for determining obviousness, all limitations of the claim must be evaluated. However, the references, alone, or in any combination, do not teach all limitations of any rejected claim.

Claim 1 includes "a first VLAN-capable switch located at a local site; a first uniquely identified system under test (first SUT) located at the local site and connected to the first VLAN-capable switch; a second VLAN-capable switch located at a remote site; a second uniquely identified SUT (second SUT) located at the remote site and connected to the second VLAN-capable switch; a connection between the first VLAN-capable switch and the second VLAN

capable switch such that the first and second SUTs are dynamically connected to or disconnected from a VLAN; and a local burn rack located at the local site for receiving the first SUT and a remote burn rack located at the remote site for receiving the second SUT such that the first and second SUTs are configured and tested while operating together on the VLAN.”

Chan does not teach a local burn rack located at the local site for receiving the first SUT and a remote burn rack located at the remote site for receiving the second SUT such that the first and second SUTs are configured and tested while operating together on the VLAN. In fact, Chan does not teach a burn rack at all. According to the Office Action, a switch is typically placed within an enclosure, often acknowledged as a shelf or rack as implied by the claim. However, a “burn rack” as used in the Application does not refer to an enclosure within which a switch is typically placed. Instead, a “burn rack” is a rack where assembled computer systems are placed for testing and software configuration. According to the Application “In a computer manufacturing environment, once a computer system is physically assembled, it is placed in a bay, or “cell,” in a burn rack for testing and software configuration.” p.3, lines 6-7. As such, Chan does not teach a local burn rack located at the local site for receiving the first SUT and a remote burn rack located at the remote site for receiving the second SUT such that the first and second SUTs are configured and tested while operating together on the VLAN. Raj does nothing to make up for this deficiency.

Additionally, Chan does not teach a first VLAN-capable switch located at a local site. The Office Action indicates that the switch illustrated in Fig. 8 corresponds to the first VLAN-capable switch. However, the switch illustrated in Fig. 8 is shown to have X.25 access. Applicants submit that it is well-known in the art that X.25 is an ITU-T standard protocol suite for connection to packet switched wide area networks using lead lines, the phone or ISDN system as the networking hardware. This does not teach a switch that is VLAN-capable. In fact, a search for “VLAN” in the Chan reference returned no results. A search for “virtual” in the Chan reference returned only results for “virtual circuits.” Applicants respectfully submit that a virtual circuit does not teach a VLAN. Instead, Applicants submit that it is well-known in the art that X.25 provides virtual circuits so that a packet switched network can appear to be a circuit switch network. As such, Chan does not teach a first VLAN-capable switch located at a local site.

Raj does nothing to make up for this deficiency. The Office Action indicates that 220A and 200B in Fig. 12 teaches two switches that form a virtual connection because one skilled in the art can appreciate two switches coming together to form a virtual LAN. Applicants respectfully disagree, because not all switches are VLAN-capable. In fact, a search for “virtual”

or "VLAN" in Raj returned no results. As such, Raj does not teach a first VLAN-capable switch located at a local site.

For similar reasons, Applicants submit that neither Chan nor Raj teach a second VLAN-capable switch located at a remote site. Because no VLAN-capable switches are taught by the references, it follows that the references cannot teach first or second systems under test (SUT) that are connected to VLAN-capable switches. As such, the references fail to teach a first uniquely identified SUT located at the local site and connected to the first VLAN-capable switch and a second uniquely identified SUT located at the remote site and connected to the second VLAN-capable switch. Additionally, it also follows that neither of the references can teach a connection between the first VLAN-capable switch and the second VLAN capable switch such that the first and second SUTs are dynamically connected to or disconnected from a VLAN.

Furthermore, not only do the references not teach a VLAN, the references do not teach dynamically connecting to or disconnecting from a VLAN. According to the Office Action Raj teaches dynamically connecting to and disconnecting from a VLAN at Fig. 12. However, Fig. 12 shows two Tag Switch Routers (TSR1 and TSR2) tag switching over an asynchronous transfer mode (ATM). TSR1 coupled to TSR2 using an ATM. This does not teach dynamically connecting to or disconnecting from a VLAN. In fact there appears to be no dynamic connecting to or disconnecting from any network at all, let alone to or from a VLAN. Chan does nothing to make up for this deficiency, and the Office Action has made no argument to the contrary.

Therefore, it is impossible to render the subject matter of the claims as a whole obvious based on a single reference or any combination of the references, and the above explicit terms of the statute cannot be met. As a result, the USPTO's burden of factually supporting a *prima facie* case of obviousness clearly cannot be met with respect to claim 1, and a rejection under 35 U.S.C. §103(a) is not applicable. Independent claims 8, 15, 21, 22-23 and 30-31 are allowable for similar reasons as described for representative claim 1.

**PATENT**

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Therefore, independent claims 1, 8, 15, 21-23 and 30-31, and their respective dependent claims are submitted to be allowable.

In view of all of the above, the allowance of claims 1-5, 7-12, 14-19, 21-28 and 30-31 is respectfully requested.

The amended claims are supported by the original application.

The Examiner is invited to call the undersigned at the below-listed telephone number if a telephone conference would expedite or aid the prosecution and examination of this application.

Respectfully submitted,



James R. Bell

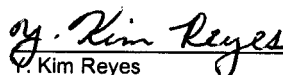
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